IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1371 OF 1987

The National Radio & Electronics Company limited .. Petitioner.

V/s.

The Collector of Central Excise, (Appeals) & Others .. Respondents.

Mr.Sheeraz Rustamjee i/b. Cr. Bayley & Co. for the petitioner.

Mr.P.S. Jetly with Mr.R.C. Master for the respondents.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 19TH APRIL, 2005.

P.C. :

1. Heard learned counsel for the petitioner. Mr.Jetly appears for the respondents.

2. The petitioner in this petition is claiming refund of duty paid under mistake of law. In view of the judgment of the Apex Court in the case of **Mafatlal Industries Limited V/s. Union of India [89 ELT 247 (SC)]**, the petitioner is not entitled to claim refund on any count whatsoever.

3. As regards one of the claims which is within the period of six months, the same also cannot be

granted in view of the fact that the petitioners have not challenged the assessment order; In the light of the decision of the Apex Court in the case of **Collector of Central Excise, Kanpur V/s. Flock (India) Pvt. Limited [120 ELT 285 (SC)]**, the petitioners for want of challenge to the assessment order are not entitled to any refund even though their applications is within time.

4. Rule is discharged with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)